

Marriage

Presented by Susanna Sparkman

Disclaimer

- DSHS – VSU is not the authority on marriage
 - County Attorneys can provide statute interpretation
- DSHS – VSU is the repository for ML applications
- DSHS – VSU does prescribe the form and content of the ML application
- DSHS – VSU receives many marriage-related questions though
 - So let's talk about it!



Agenda

- ◉ Registration types
- ◉ Who can get married
- ◉ Proof of ID and age
- ◉ Ceremony
- ◉ 72-hour wait period
- ◉ Destination weddings
- ◉ Correcting a ML
- ◉ Issuance
- ◉ Fees
- ◉ Learning check



Registration Types

FORMAL

- Two parties desiring to enter into a ceremonial marriage must obtain a marriage license from the county clerk in any county of this state

- FC 2.001



- FC 2.401

Who can get married?


- ✓ Individuals ≥ 18
- ✓ Individuals < 18 but ≥ 16 w/
 - written consent; or
 - documents establishing dissolution of applicant's previous marriage; or
 - court order
- ✓ Individuals < 16 w/ court order
- ✓ Not divorced w/i last 30 days
 - Unless applicants are former spouses
- ✓ Applicants not related to the other applicant as
 - Ancestor or descendent, by blood or adoption;
 - Brother or sister, of the whole or half blood or by adoption;
 - A parent's brother or sister, of the whole or half blood or by adoption;
 - A son or daughter of a brother or sister, of the whole or half blood or by adoption;
 - A current or former step-child or stepparent; or
 - A son or daughter of a parent's brother or sister, of the whole or half blood or by adoption;



Same Sex Marriage

- June 26, 2015 Supreme Court *Obergefell* decision recognizing same-sex marriage as well as the July 7, 2015 U. S. District Court *DeLeon* decision.

- New Application that is Gender Neutral.

 **APPLICATION FOR MARRIAGE LICENSE,** _____ **COUNTY, TEXAS**

The form and content of this application is prescribed by section 2.004 of the Texas Family Code.

WARNING: IT IS A FELONY TO FALSIFY INFORMATION ON THIS DOCUMENT. THE PENALTY FOR KNOWINGLY MAKING A FALSE STATEMENT ON THIS FORM OR FOR SIGNING A FORM WHICH CONTAINS A FALSE STATEMENT IS 1 TO 10 YEARS IMPRISONMENT AND A FINE OF UP TO \$10,000. (HEALTH AND SAFETY CODE, CHAPTER 195, SEC. 195.003)

Applicant One	First Name	Middle Name	Current Last Name	Suffix
	Woman's Maiden Name (If Applicable)			Telephone Number
	Street Address		City	State Zip
	Date of Birth	Place of Birth (including city, county and state)	Social Security Number	

I have not been divorced within the last 30 days. ☐ TRUE ☐ FALSE

I am not presently married. ☐ TRUE ☐ FALSE

I am not presently delinquent in the payment of court ordered child support.
☐ TRUE ☐ FALSE

The other applicant is not presently married ☐ TRUE ☐ FALSE

I am not related to the other applicant as: ☐ TRUE ☐ FALSE

- an ancestor or descendant, by blood or adoption;
- a brother or sister, of the whole or half blood or by adoption;
- a parent's brother or sister, of the whole or half blood or by adoption;
- a son or daughter of a brother or sister, of the whole or half blood or by adoption;
- a current or former stepchild or stepparent; or
- a son or daughter of a parent's brother or sister, of the whole or half blood or by adoption;

☐ I wish to make a voluntary contribution of \$5.00 to promote healthy early childhood by supporting the Texas Home Visitation Program administered by the Office of Early Childhood Coordination of Health and Human Services [Texas Family Code 2.004(13)].

I solemnly swear (or affirm) that the information I have given in this application is correct _____

Applicant's Signature and Date Signed

Applicant Two	First Name	Middle Name	Current Last Name	Suffix
	Woman's Maiden Name (If Applicable)			Telephone Number
	Street Address		City	State Zip
	Date of Birth	Place of Birth (including city, county and state)	Social Security Number	

I have not been divorced within the last 30 days. ☐ TRUE ☐ FALSE

I am not presently married. ☐ TRUE ☐ FALSE

I am not related to the other applicant as: ☐ TRUE ☐ FALSE

- an ancestor or descendant, by blood or adoption;
- a brother or sister, of the whole or half blood or by adoption;
- a parent's brother or sister, of the whole or half blood or by adoption;
- a son or daughter of a brother or sister, of the whole or half blood or by adoption;
- a current or former stepchild or stepparent; or
- a son or daughter of a parent's brother or sister, of the whole or half blood or by adoption;

Same Sex Declaration and Registration of Informal Marriage

- ◉ You will have to speak to your legal office regarding whether or not a Declaration and Registration of Informal Marriage can be backdated prior to the SCOTUS ruling
- ◉ VSU Will accept the Declaration
- ◉ We cannot speak to the validity of the Declaration. We are just the record keepers

Absent Applicant

- ◉ Applicant unable to appear personally
- ◉ Someone else can apply on their behalf with
 - a notarized statement from the applicant
 - proof of legal authority
 - documents:
 - Dissolution of marriage
 - Court order
 - Consent of the applicant
- ◉ Both applicants must provide
 - Personal identification
 - Absentee ballot if the applicant is a member of U.S. armed forces stationed in another country in support of combat or another military operation



- FC 2.006

Proxy

- Affidavit of absent applicant must include
 - The appointment of any adult, other than the other applicant, to act as proxy for the purpose of participating in the ceremony, if the absent applicant is
 - Member of the U.S. armed forces
 - Stationed in another country in support of combat or another military operation
 - Unable to attend the ceremony
- FC 2.007 (8)



Absent Applicant Summary

- Anyone can still apply on behalf of an absent applicant
- Only someone who is in the military stationed overseas can appoint a proxy to stand in for them during the wedding
- If they are an absent applicant and not military personnel deployed overseas, they have to be present for the ceremony

Filing of Absent Applicant Affidavit

- ◎ The county clerk shall file with VSU
 - a copy of each completed marriage license application
 - a copy of any affidavit of an absent applicant submitted with an application

- ◎ The clerk shall file the copies not later than the 90th day after the date of the application
 - The clerk may not collect a fee for filing the copies

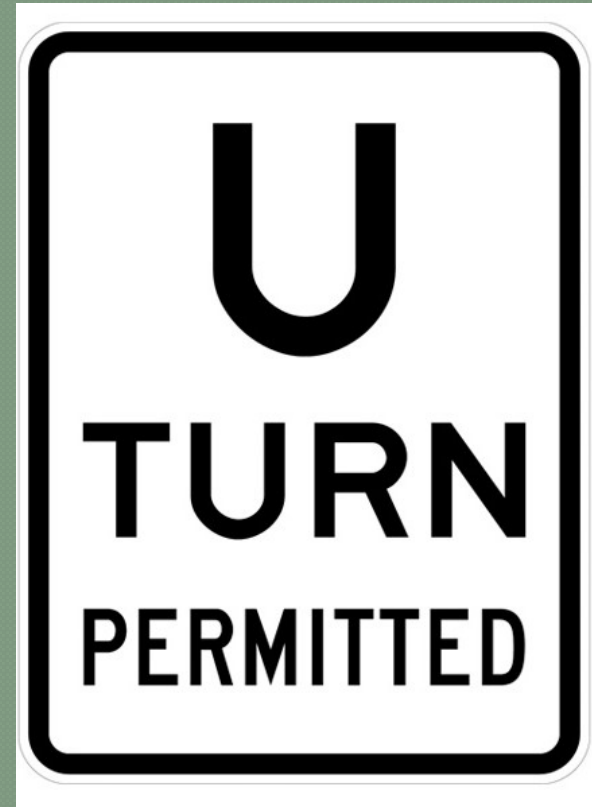
- HSC 194.001 (a)

Re-marriage

- Neither party to a divorce may marry a 3rd party before the 31st day after the date the divorce is decreed

(Except as otherwise provided by this subchapter)

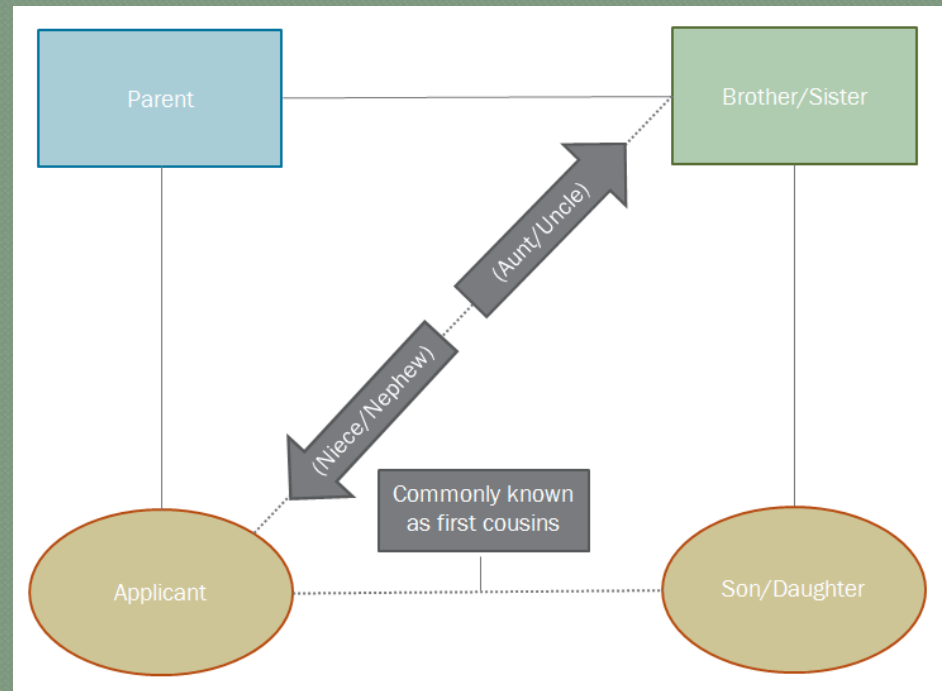
- Former spouses may marry each other at any time



Learning Check

FIRST COUSINS?

- You would inform them that:
 - you cannot answer that question
 - you are just the issuer of the license
 - your ability to issue that license is based on how they answer the questions on the application



Learning Check

○ The County Clerk may not issue a license if either applicant checks false to

- “The other applicant is not related to me as:
 - A. an ancestor or descendant, by blood or adoption;
 - B. a brother or sister, of the whole or half blood or by adoption;
 - C. a parent's brother or sister, of the whole or half blood or by adoption;
 - D. a son or daughter of a brother or sister, of the whole or half blood or by adoption;
 - E. a current or former stepchild or stepparent; or
 - F. a son or daughter of a parent's brother or sister, of the whole or half blood or by adoption;”

- FC 2.009 (a)(5)

Consanguinity

- A marriage is void if one party to the marriage is related to the other as:
 - 1) an ancestor or descendant, by blood or adoption;
 - 2) a brother or sister, of the whole or half blood or by adoption;
 - 3) a parent's brother or sister, of the whole or half blood or by adoption; or
 - 4) a son or daughter of a brother or sister, of the whole or half blood or by adoption

- FC 6.201

ID Requirements for ML Issuance

- ◉ The proof of the identity and age of each applicant must be established by:
 - a driver's license or ID card issued by this state, or a Canadian province (current or not expired for >2 years)
 - a US passport;
 - a current passport issued by a foreign country or a consular document issued by a state or national government;
 - an unexpired Certificate of US Citizenship, Certificate of Naturalization, US Citizen Identification Card, Permanent Resident Card, Temporary Resident Card, Employment Authorization Card, or other document issued by the federal Department of Homeland Security or the US Department of State including an identification photograph;
 - an unexpired military ID card for active duty, reserve, or retired personnel with a photograph;
 - an original or certified copy of a birth certificate issued by a bureau of vital statistics for a state or a foreign government;
 - an original or certified copy of a Consular Report of Birth Abroad or Certificate of Birth Abroad issued by the US Department of State;
 - an original or certified copy of a court order relating to applicant's name change or sex change;
 - school records from a secondary school or institution of higher education;
 - an insurance policy continuously valid for the two years preceding date of application for a license;
 - a motor vehicle certificate of title;
 - military records, including documentation of release/discharge from active duty or draft record;
 - an unexpired military dependent ID card;
 - an original or certified copy of the applicant's marriage license or divorce decree;
 - a voter registration certificate;
 - a pilot's license issued by the FAA or another authorized agency of the United States;
 - a license to carry a concealed handgun
 - a temporary driving permit or a temporary identification card issued by DPS; or
 - an offender ID card issued by TDCJ

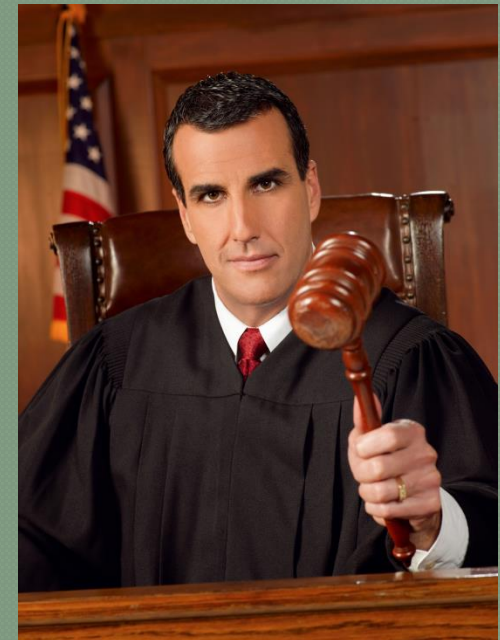
Persons Authorized to Conduct a Marriage Ceremony

- a licensed or ordained Christian minister or priest;
- a Jewish rabbi;
- a person who is an officer of a religious organization and who is authorized by the organization to conduct a marriage ceremony; and



Persons Authorized to Conduct a Marriage Ceremony

- ◉ a justice of the supreme court
- ◉ judge of the court of criminal appeals
- ◉ justice of the courts of appeals
- ◉ judge of the district, county, and probate courts
- ◉ judge of the county courts at law
- ◉ judge of the courts of domestic relations
- ◉ judge of the juvenile courts
- ◉ retired justice or judge of those courts
- ◉ justice of the peace
- ◉ retired justice of the peace
- ◉ judge of a municipal court
- ◉ retired judge of a municipal court
- ◉ associate judge of a statutory probate court
- ◉ retired associate judge of a statutory probate court
- ◉ associate judge of a county court at law
- ◉ retired associate judge of a county court at law
- ◉ judge or magistrate of a federal court of this state
- ◉ a retired judge or magistrate of a federal court of this state



Persons Authorized to Conduct a Marriage Ceremony

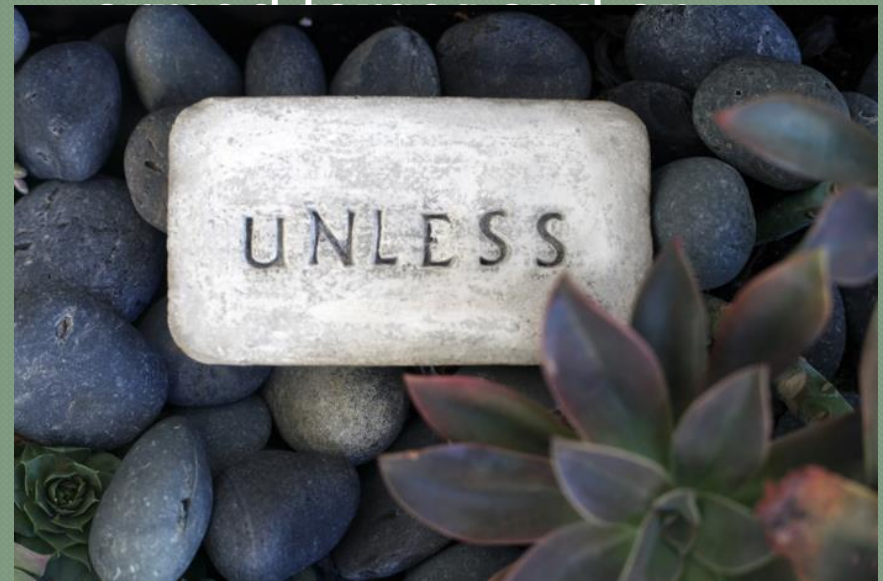
- Do Officiates have to Check with the state before they perform a ceremony?



72-Hour Waiting Period

- A marriage ceremony may not take place during the 72-hour period immediately following the issuance of the marriage license
- FC 2.204

- Member of the U.S.



- from a judge
- Completes pre-marital education

72-Hour Waiting Period

- The court may grant an annulment of a marriage to a party to the marriage if the marriage ceremony took place in violation of Section 2.204 during the 72-hour period immediately following the issuance of the marriage license
- A suit may not be brought under this section after the 30th day after the date of the marriage

- FC 6.110

72-Hour Waiting Period

- If the 72 Hour waiting period has not been properly waived and the ceremony is conducted anyway, the county clerk should still file the marriage license
- The person who conducted the marriage ceremony is the person at fault not the county clerk
- The county clerk shall record a returned marriage license and mail the license to the address indicated on the application.

- FC 2.208

Destination Weddings

- ◉ Can the couple take the license out of county/state/country if the ceremony is to be held elsewhere?
- ◉ No references in state law limiting where the ceremony can take place

- ◉ County Clerk shall



Destination Weddings

- Can a marriage, or status of marriage, from another country be filed by the CC?
- Cannot be filed with marriage licenses issued by your office



Correcting a Marriage License

- If one or both parties discover an error on the recorded marriage license, both parties to the marriage shall execute a notarized affidavit stating the error
 - County clerk shall file and record the affidavit as an amendment to the marriage license
 - Clerk shall include a copy of the affidavit with any future certified copy of the marriage license issued
- FC 2.209 (c)

AFFIDAVIT FOR CORRECTION OF A MARRIAGE LICENSE
Texas Family Code Sec. 2.209 (c)

The State of Texas
County of Smith

This Affidavit is executed to correct or add information to the original marriage license of _____ and _____, married on the _____ day of _____ (month), _____ (year). The marriage license is recorded as document number _____ and/or Volume _____ Page _____ of the marriage records in the office of the County Clerk of Smith County, Texas. The following facts set forth in the said marriage record are incorrectly stated therein;

The affiants upon their knowledge state the following facts to be true and changes are necessary to make the following corrections:

X _____ X _____
Signature of Affiant Number One Signature of Affiant Number Two

The State of Texas
County of Smith

Before me, the undersigned authority, on this day personally appeared _____ and _____ known to me to be the persons whose names are subscribed on the foregoing instrument, and acknowledged to me that they executed the same for the purposes and consideration therein expressed.

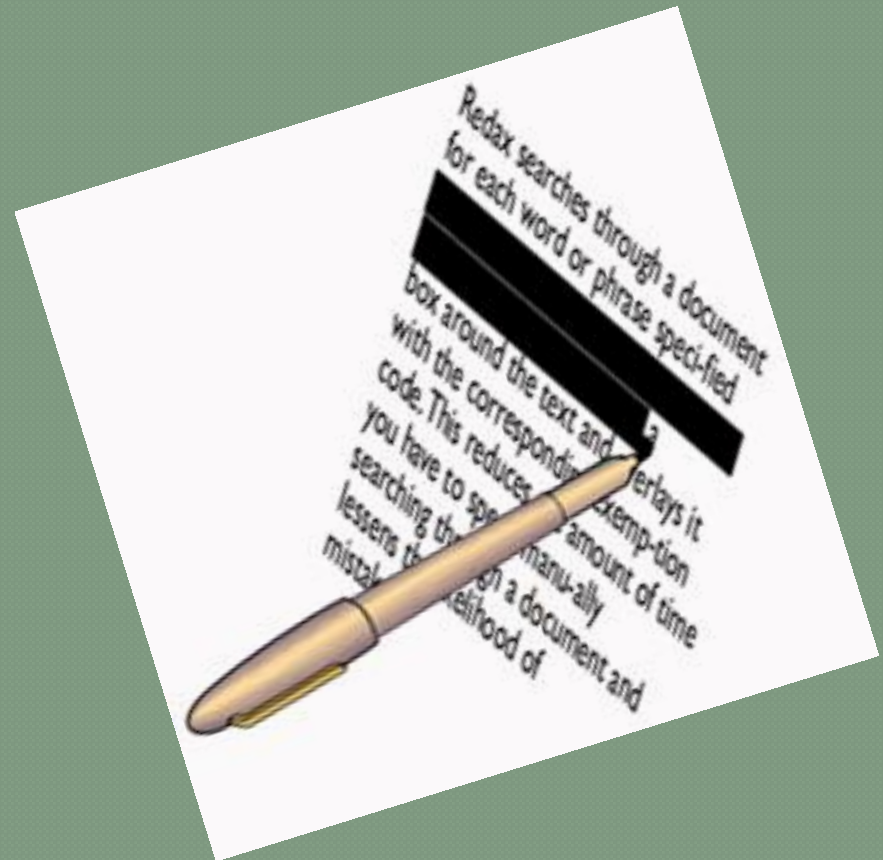
The instrument was acknowledged before me on the _____ day of _____, 20____ by _____ (Notary).

(Notary Signature)

(Notary Seal) Notary Public in and for the State of _____
Printed Name: _____
My Commission Expires: _____

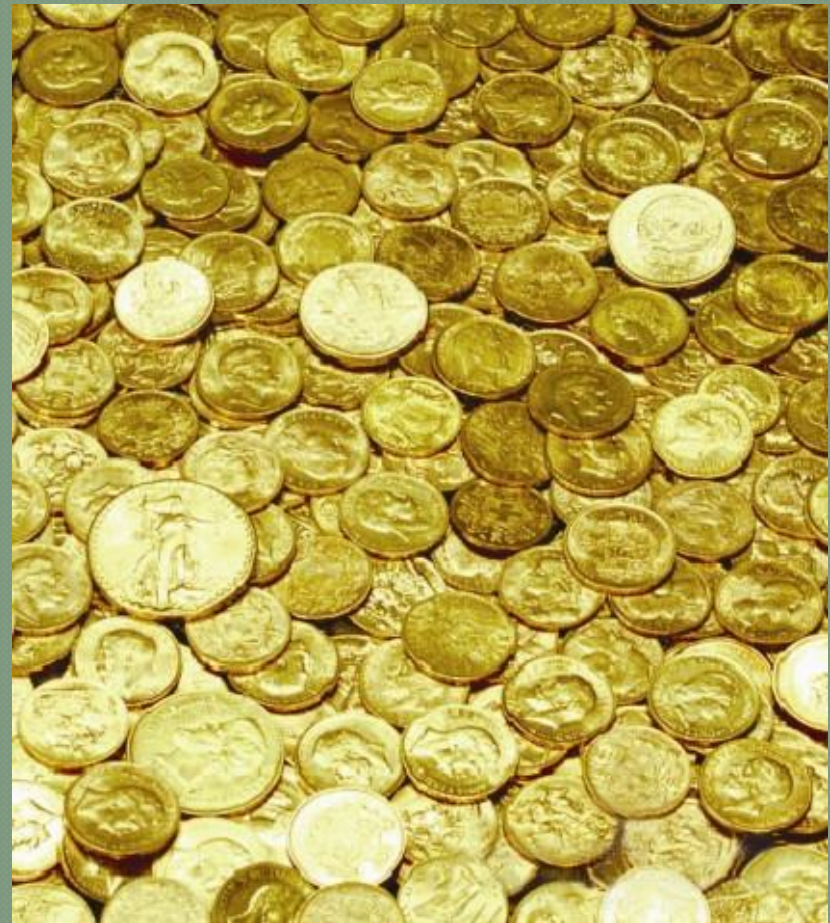
Issuance

- On request, the county clerk shall issue a certified copy of a recorded marriage license
 - FC 2.209
- Some offices interpret this to mean they can only issue certified copies
- Up to your office to determine whether or not you can issue plain copies
- Social Security # shall be redacted in the release of information in a marriage license application
 - GC 552.415



Fees

- A CC shall collect the following fees for services rendered to any person:
 - Marriage License ...\$60.00
- LGC 118.011 (7)
- The CC shall issue a marriage license without collecting a marriage license fee from an applicant who:
 - completes a premarital education course described by Section [2.013](#), Family Code; and
 - provides to the CC a premarital education course completion
- LGC 118.018 (b-1)



Fees

- On request, the county clerk shall issue a certified copy of a recorded ML
- FC 2.209 (a)
- Some offices interpret this to mean they can only issue certified copies
- Up to your office to determine whether or not you can issue plain copies

Fees

COPY OF ML

- ◉ If a CC is treating the ML as a
 - “Plain Copy”
 - a CC shall charge \$1 for a plain copy of a 1 page ML
 - LGC 118.011 (4)
 - “Certified Paper”
 - a CC shall charge \$6 for a certified copy of a 1 page ML
 - LGC 118.011 (a)(3)

VERIFICATION OF ML

- ◉ Many CCs say they are issuing a “Marriage Verification” when issuing a certified copy of a ML
- ◉ A CC must charge the same fee as the state when issuing a “Marriage Verification”
- ◉ The fee for a search to verify a marriage record is \$20.00
 - TAC 181.22 (h) & (s)

Fees

- ◉ VSU does not have an opinion on how you should view the issuance of certified copies of marriage licenses
- ◉ This fee is left up to the county clerks
- ◉ However, if you are reviewing it as a marriage verification, you must charge the same fee as the State

Twogether in Texas

- ◉ Texas' Healthy Marriage Program
- ◉ Provides voluntary marriage & relationship education skills
- ◉ Maintains a central registry for marital education providers



Adios

• See you in June!



2016 Texas Vital Statistics Regional Conference

June 13: Galveston, Texas

June 15: Arlington, Texas

June 17: San Angelo, Texas